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DEC 10 2001
Docket No.: 50179-0848
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Thomas Charles ELLEMAN, et al.

Serial No.: 09/701,437

Group Art Unit: 1631

Filed: November 29, 2000

Examiner: M. Sheinberg

For: METHOD OF DESIGNING AGONISTS AND ANTAGONISTS TO EGF
RECEPTOR FAMILY

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RESPONSE TO OFFICIAL ACTION

Commissioner for Patents
Washington, DC 20231

Sir:

This is in response to the Official Action dated November 9, 2001 in this application.

In the action, restriction was required between the inventions identified as Group I through Group VII. Applicant was required to elect one of the indicated groups to which the claims would be restricted. In response to this requirement, Applicant hereby elects the invention of Group I, claims 1-23. The requirement for restriction is respectfully traversed and reconsideration is requested.

In making the restriction requirement, the Examiner holds that the indicated groups of claims lack unity of invention. Applicant submits that the Examiner's holding is in error. The special technical feature linking the groups of claims is the elucidation of

the three dimensional structure of the EGF receptor as defined by the coordinates presented in Figure 6. This information provides a rational basis for the identification of ligands that bind to the EGF receptor and that may have therapeutic applications. The Examiner's restriction requirement appears to be based on the fact that the publication by Garrett et al. (Nature, Vol. 394, 1998) teaches crystal structures of the EGF-1 receptor. However, this citation was not published until July 23, 1998 subsequent to the effective priority date of the present application. Therefore, the separate groups have not achieved separate status in the prior art as suggested by the Examiner. Therefore, reconsideration of the restriction requirement is present.

The Official Action contains a drawing notice in which various objections are made to the drawings submitted for the application. A complete response to this requirement will require revisions to certain figures by a draftsman and the revised drawings in final form will soon be submitted. With respect to the changes required for Figure 6, a copy of Figure 6 is presented with proposed corrections in red. The Examiner's approval of these changes is requested so that the drawings can be formally corrected.

It is believed that the above represents a complete response to the Official Action and that the application is now in condition for action on the merits.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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